IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Criminal Revision No. 446 of 2001

Date of Decision: March 26, 2009

Darbara Singh and others .....Petitioners

Versus

State of Punajab .....Respondent

Coram: Hon'ble Mrs. Justice Sabina

Present: Mr. Kundan Lal Chaudhary, Advocate for the petitioners

Mrs.Manjari Nehru Kaul, DAG Punjab

**

Sabina, J.

Petitioners were convicted for an offence under Sections 326/325/324/323/34 of the Indian Penal Code (hereinafter referred to as `IPC') by the Sub Divisional Judicial Magistrate, Ajnala vide judgment dated 31.8.1995. Vide order of even date, petitioners were sentenced to undergo the imprisonment which is as under:-

Darbara Singh	1.To undergo RI for 9 months and to pay fine of Rs.500/- only under Sectin 326 IPC 2. To undergo RI for 6 months u/s 324 IPC 3. To undergo RI for six months and to pay a fine of Rs.500/- under Sections 325/34 IPC 4. To undergo RI for six months u/s 323/34 IPC
Mehal Singh	1. To undergo RI for 6 months u/s 323 IPC 2. To undergo RI for 6 months u/s 324/34 IPC 3. To undergo RI for 6 months and to pay a fine of Rs.500/- u/s 325 IPC 4. To undergo RI for 9 months and to pay a fine of Rs.500/- u/s326/34 IPC
Sakattar Singh	1. To undergo RI for 6 months u/s 323 IPC 2. To undergo RI for 6 months u/s 324/34 IPC 3. To undergo RI for 6 months and to pay a fine of Rs.500/- u/s 325/34 IPC 4. To undergo RI for 9 months and to pay a fine of Rs.500/- u/s 326/34 IPC
Major Singh	1.To undergo RI for 6 months u/s 323 IPC 2. To undergo RI for 6 months u/s 324/34 IPC 3. To undergo RI for 6 months and to pay a fine of Rs.500/- u/s 325/34 IPC 4. To undergo RI for 9 months and to pay a fine of Rs. 500/- u/s326/34 IPC

Aggrieved by the same, petitioner filed an appeal and the same was dismissed by the Additional Sessions Judge, Amritsar vide order dated 9.1.2001. Hence, the present revision petition.

The brief facts of the case, as noticed by the Appellate Court in para 2 of its judgment, are as under:-

> " The case of the prosecution, in brief, is that it was stated in the statement Ex.PA by Nishan Singh that he was resident of village Chugawan and was agriculturist. On the night of 13.2.1991, the

complainant and his father Tara Singh and brother Kashmir Singh and Jagir Singh son of the uncle of the complainant were sleeping. At about 12 night, Darbara Singh armed with kirpan, Mehal Singh armed with dang, Sakattar Singh armed with sua and Major Singh armed with dang entered into their house. There were also some other persons accompanied by the accused. They asked the complainant to hand over to them, whatever, they had and they will teach a lesson to them for encroaching the site. The accused brought Tara Singh outside the house. The accused started searching the house of the complainant. The accused took away Rs.13,000/- from the house of the complainant along with one golden kara weighing 1½ tola. Darbara Singh accused gave kirpan blow on the right thumb of the complainant. Mehal Singh accused gave dang blow on the right shoulder of the complainant. Then Sakattar Singh gave sua blow on the lower part of the eye of the complainant. The complainant fell down on the ground and Major Singh accused gave dang blow on the right finger of the right hand of the complainant. Then the accused caused injuries to Kashmir Singh and Jagir Singh. The accused threw the injured/complainant into the courtyard of the house of the complainant. The accused started raising the wall in the plot in possession of the complainant party. Then the accused ran away from the spot alongwith their respective weapons. Sarup Singh ASI took up the investigation of the case. He sought the opinion of the doctor regarding the fitness of the complainant through application Ex.PW5/A, Ex.PW5/B and Ex.PW5/C. On 15.2.91,

the injured were declared fit to make their statement. Then statement Ex.PW of Nishan Singh was recorded. The investigator prepared the rough site plan Ex.PW5/D. After the completion of investigation, the accused were challaned. The FIR was registered on the statement of Ani Singh."

Learned counsel for the petitioners, during the course of arguments, has not challenged the conviction of the petitioners under Sections 326/325/324/323/34 but has submitted that the occurrence had taken place in the year 1991 and the petitioners were facing the criminal proceedings since then. Injury with regard to offence under Section 326 IPC was on the index finger of injured-Nishan Singh. Parties were neighbourer. In fact, it was a case of cross version. But in the cross case, the accused (complainant party in this case) were acquitted.

Keeping in view the submissions made by the learned counsel for the petitioners, it is a fit case where the sentence qua imprisonment is liable to be reduced to already undergone by the petitioners.

Accordingly, the conviction of the petitioners under Section 326/325/324/323/34 IPC is maintained. However, their sentence qua imprisonment is reduced to already undergone by them.

This petition is disposed of accordingly.

(Sabina)
Judge

March 26, 2009
arya